

AMENDED IN ASSEMBLY AUGUST 30, 1999

AMENDED IN ASSEMBLY AUGUST 19, 1999

AMENDED IN SENATE MAY 19, 1999

AMENDED IN SENATE APRIL 28, 1999

AMENDED IN SENATE APRIL 6, 1999

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**SENATE BILL**

**No. 1118**

**Introduced by Senator Alarcon  
(Coauthor: Senator O'Connell)**

February 26, 1999

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An act to amend Sections 5322, 5324, 5325, 5361, 5362, 15100, 15140, and 15146 of, to add Sections 15150 and 15205 to, the Education Code, and to amend Section 53508.7 of the Government Code, relating to schools and community colleges.

LEGISLATIVE COUNSEL'S DIGEST

SB 1118, as amended, Alarcon. Schools and community colleges: governing boards.

Under existing law, whenever an election is ordered, the governing board of a district or the board or officer authorized by the Education Code to make such designations is required, not less than 123 days prior to the date set for the election, to specify the date and purpose of the election. At least 120 days prior to the date specified for the holding of any school election, the county superintendent of schools is required to deliver to the county clerk or registrar of voters, if such office

has been established in the county where the election is to be held, copies of the order of election and the formal notice of election. Delivery of a copy of the formal notice of election to the county clerk or registrar of voters is required at least 120 days prior to the date of the election.

This bill would impose a state-mandated local program by instead requiring that, in the case of an election on a measure, the order of election, the specification of the date and purpose of the election, and the formal notice of election, be made at least 88 days prior to the date of the election to the extent that this requirement imposes a higher level of service.

Existing law provides for various state bond acts that provide for the issuance, pursuant to the State General Obligation Bond Law, of bonds and the expenditure of the proceeds therefrom to aid the school districts and the California Community Colleges for, among other things, the construction and equipping of educational facilities.

Under existing law, the bonds of a school district or community college district are required to be issued and sold by the board of supervisors of the county, the county superintendent of schools that has jurisdiction over the district, or the community college district governing board, where appropriate, as soon as possible following receipt of a resolution duly adopted by the governing board of the school district or community college district.

This bill would provide, notwithstanding this provision, that the board of supervisors of any county may provide by resolution that the governing board of a school district or a community college district within the county superintendent's jurisdiction, *and which has not received a qualified or negative certification in its most recent interim report*, may issue and sell bonds on its own behalf and would require the governing board of a school district or community college district that issued bonds or refunding bonds payable from ad valorem taxes to transmit the authorizing resolution and debt service schedule to the county auditor and county treasurer.

Under existing law, bonds are required to be sold at a public sale and at a price at, above, or below par, as the legislative body determines.



This bill would allow school district and community college district bonds to be sold at public or private sale.

Under existing law, if the board of supervisors deems it for the best interests of the school district or community college district named in the petition that unsold bonds be cancelled, the board is required to make and enter an order in the minutes of its proceedings that the unsold bonds are cancelled, and upon the entry of the order the bonds and the vote by which they were authorized to be issued ceases to be of any validity.

This bill would provide that with respect to any bonds authorized at a school district election on November 3 5, 1991, and thereafter cancelled without having been issued, the board of supervisors is authorized to order the cancellation annulled upon a finding that the issuance of the bonds is in the best interest of the district, and issue the bonds subject to all the terms and limitations of the original authorization.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 5322 of the Education Code is  
2 amended to read:  
3 5322. Whenever an election is ordered, the governing  
4 board of the district or the board or officer authorized by  
5 this code to make such designations shall, concurrently  
6 with or after the order of election but not less than 123  
7 days prior to the date of the election in the case of an

1 election for governing board members, or, at least 88 days  
2 prior to the date of the election in the case of an election  
3 on a measure, including a bond measure, by resolution  
4 delivered to the county superintendent of schools and the  
5 officer conducting the election, or, in the case of an  
6 election on a measure, only to the officer conducting the  
7 election, specify the following, or such of the following as  
8 he or she or it may have authority to designate:

9 (a) The date of the election.

10 (b) The purpose of the election.

11 The resolution or resolutions shall be known as  
12 “specifications of the election order” and shall set forth  
13 the authority for ordering the election, the authority for  
14 the specification of the election order and the signature  
15 of the officer or the clerk of the board by law authorized  
16 to make the designations therein contained.

17 SEC. 2. Section 5324 of the Education Code is  
18 amended to read:

19 5324. At least 120 days prior to the date of the election  
20 in the case of an election for governing board members,  
21 the county superintendent of schools shall deliver to the  
22 county clerk or registrar of voters, if such office has been  
23 established in the county where the election is to be held,  
24 copies of:

25 (a) The order of election.

26 (b) The formal notice of election.

27 SEC. 3. Section 5325 of the Education Code is  
28 amended to read:

29 5325. Any school district election or community  
30 college district election, except a bond measure election,  
31 ordered to be held in accordance with this code shall be  
32 called by the county superintendent of schools having  
33 jurisdiction of the election by doing both of the following:

34 (a) Posting or publication of notices of election.

35 (b) Delivery of a copy of the formal notice of election  
36 to the county clerk or registrar of voters at least 120 days  
37 prior to the date of the election in the case of an election  
38 for governing board members.

39 SEC. 4. Section 5361 of the Education Code is  
40 amended to read:

1 5361. The formal notice of election for any school  
2 district election or community college district election,  
3 except a bond measure election, shall be prepared by the  
4 county superintendent of schools and shall contain the  
5 following:

6 (a) The date of the election.

7 (b) The purpose of the election.

8 *SEC. 4.5. Section 5362 of the Education Code is*  
9 *amended to read:*

10 5362. As an alternative to publication by newspaper  
11 pursuant to Section 5363, publication of formal notice  
12 may be effected pursuant to this section. Not later than  
13 90 days prior to the date of any school district or  
14 community college district election, *except a bond*  
15 *measure election*, the county superintendent of schools  
16 having jurisdiction shall cause to be posted the formal  
17 notice of the election in public view at all of the following:

18 (a) Every schoolhouse in the territory, district or  
19 districts in which the election is to be held.

20 (b) At three public places in the territory, district or  
21 districts.

22 *SEC. 5. Section 15100 of the Education Code is*  
23 *amended to read:*

24 15100. Except as otherwise provided by law, the  
25 governing board of any school district or community  
26 college district may, when in its judgment it is advisable,  
27 and shall, upon a petition of the majority of the qualified  
28 electors residing in the school district or community  
29 college district, order an election and submit to the  
30 electors of the district the question whether the bonds of  
31 the district shall be issued and sold for the purpose of  
32 raising money for the following purposes:

33 (a) The purchasing of school lots.

34 (b) The building or purchasing of school buildings.

35 (c) The making of alterations or additions to the school  
36 building or buildings other than as may be necessary for  
37 current maintenance, operation, or repairs.

38 (d) The repairing, restoring, or rebuilding of any  
39 school building damaged, injured, or destroyed by fire or  
40 other public calamity.

1 (e) The supplying of school buildings and grounds  
2 with furniture, equipment, or necessary apparatus of a  
3 permanent nature.

4 (f) The permanent improvement of the school  
5 grounds.

6 (g) The refunding of any outstanding valid  
7 indebtedness of the district, evidenced by bonds, or of  
8 state school building aid loans.

9 (h) The carrying out of the projects or purposes  
10 authorized in Section 17577 or 81613.

11 (i) The purchase of schoolbuses the useful life of which  
12 is at least 20 years.

13 (j) The demolition or razing of any school building  
14 with the intent to replace it with another school building,  
15 whether in the same location or in any other location.

16 Any one or more of the purposes enumerated, except  
17 that of refunding any outstanding valid indebtedness of  
18 the district evidenced by bonds, may, by order of the  
19 governing board entered in its minutes, be united and  
20 voted upon as one single proposition.

21 SEC. 6. Section 15140 of the Education Code is  
22 amended to read:

23 15140. (a) Bonds of a school district or community  
24 college district shall be offered for sale by the board of  
25 supervisors of the county, the county superintendent of  
26 which has jurisdiction over the district, or the community  
27 college district governing board, where appropriate, as  
28 soon as possible following receipt of a resolution duly  
29 adopted by the governing board of the school district or  
30 community college district. The resolution shall prescribe  
31 the total amount of bonds to be sold. The resolution may  
32 also prescribe the maximum acceptable interest rate, not  
33 to exceed 8 percent, and the time or times when the  
34 whole or any part of the principal of the bonds shall be  
35 payable, which shall not be more than ~~40~~ 25 years from the  
36 date of the bonds.

37 (b) Notwithstanding subdivision (a) or another  
38 provision of this chapter, the board of supervisors of any  
39 county may provide by resolution that the governing  
40 board of any school district or community college district

1 over which the county superintendent of schools has  
2 jurisdiction, *and which has not received a qualified or*  
3 *negative certification in its most recent interim report,*  
4 may issue and sell bonds on its own behalf pursuant to this  
5 chapter without further action of the board of supervisors  
6 or officers of that county or of any other county in which  
7 a portion of the school district or community college  
8 district is located. The county shall levy and collect taxes,  
9 pay bonds, and hold bond proceeds and tax funds  
10 pursuant to this chapter for the bonds issued and sold  
11 pursuant to this subdivision.

12 (c) Whenever the governing board of a school district  
13 or community college district issues bonds or refunding  
14 bonds payable from ad valorem taxes the governing  
15 board shall transmit the authorizing resolution and debt  
16 service schedule, including the debt service schedule for  
17 the bonds to be refunded, to the county auditor and  
18 county treasurer in sufficient time to permit the county  
19 to establish tax rates and necessary funds or accounts for  
20 the bonds.

21 SEC. 7. Section 15146 of the Education Code is  
22 amended to read:

23 15146. (a) The bonds shall be issued and sold  
24 pursuant to Section 15140, payable out of the interest and  
25 sinking fund of the district. The governing board may sell  
26 the bonds at a negotiated sale or by competitive bidding.  
27 *The bonds may be sold at a discount not to exceed 5*  
28 *percent and at an interest rate not to exceed the*  
29 *maximum rate permitted by law.* If the sale is by  
30 competitive bid, the governing board shall comply with  
31 Sections 15147 and 15148. The bonds shall be sold by the  
32 governing board no later than the date designated by the  
33 governing board as the final date for the sale of the bonds.

34 (b) The proceeds of the sale of the bonds, exclusive of  
35 any premium received, shall be deposited in the county  
36 treasury to the credit of the building fund of the school  
37 district, or community college district as designated by  
38 the California Community Colleges Budget and  
39 Accounting Manual. The proceeds deposited shall be  
40 drawn out as other school moneys are drawn out. The

1 bond proceeds withdrawn shall not be applied to any  
2 other purposes than those for which the bonds were  
3 issued. Any premium or accrued interest received from  
4 the sale of the bonds shall be deposited in the interest and  
5 sinking fund of the district.

6 (c) The governing board may cause to be deposited  
7 proceeds of sale of any series of the bonds in an amount  
8 not exceeding 2 percent of the principal amount of the  
9 bonds in a costs of issuance account, which may be  
10 created in the county treasury or held by a fiscal agent  
11 appointed by the district for this purpose, separate from  
12 the building fund and the interest and sinking fund of the  
13 district. The proceeds deposited shall be drawn out on the  
14 order of the governing board or an officer of the district  
15 duly authorized by the governing board to make the  
16 order, only to pay authorized costs of issuance of the  
17 bonds. Upon the order of the governing board or duly  
18 authorized officer, the remaining balance shall be  
19 transferred to the county treasury to the credit of the  
20 building fund of the school district or community college  
21 district. The deposit of bond proceeds pursuant to this  
22 subdivision shall be a proper charge against the building  
23 fund of the district.

24 (d) The governing board may cause to be deposited  
25 proceeds of sale of any series of the bonds in the interest  
26 and sinking fund of the district in the amount of the  
27 annual reserve permitted by Section 15250 or in any lesser  
28 amount, as the governing board shall determine from  
29 time to time. The deposit of bond proceeds pursuant to  
30 this subdivision shall be a proper charge against the  
31 building fund of the district.

32 (e) The governing board may cause to be deposited  
33 proceeds of sale of any series of the bonds in the interest  
34 and sinking fund of the district in the amount not  
35 exceeding the interest scheduled to become due on that  
36 series of bonds for a period of two years from the date of  
37 issuance of that series of bonds. The deposit of bonds  
38 proceeds pursuant to this subdivision shall be a proper  
39 charge against the building fund of the district.





SEC. 8. Section 15150 is added to the Education Code, to read:

15150. (a) When the governing board of a school district or a community college district deems it in the best interests of the district, it may by resolution, upon such terms and conditions as it shall prescribe, issue notes, on a negotiated or competitive-bid basis, maturing within a period not to exceed one year, in anticipation of the sale of bonds authorized pursuant to Section 15100 or Section 15340 at the time the notes are issued. The proceeds from the sale of the notes shall be used only for authorized purposes of the bonds or to repay outstanding notes authorized by this section.

(b) All notes issued and any renewal thereof shall be payable at a fixed time *not more than five years from the date of the original issuance of the note*. In the event that the sale of the bonds does not occur prior to the maturity of the notes issued in anticipation of the sale, the fiscal officer of the district, in order to meet the notes then maturing, shall issue renewal notes for this purpose. The renewal of a note may not be issued after the sale of bonds in anticipation of which the original note was issued.

(c) Every note and any renewal thereof shall be payable from the proceeds of the sale of bonds or of any renewal of notes or from other funds of the district lawfully available for the purpose of repaying the notes, including state grants. The total amount of the notes or renewals thereof issued and outstanding may not at any time exceed the total amount of the unsold bonds.

(d) Interest on the notes shall be payable from proceeds of the sale of bonds, or from the tax lawfully levied to pay principal of and interest on the bonds.

(e) The original issuance of notes and any renewal thereof may be in the form of commercial paper notes. Each issuance of commercial paper notes to repay outstanding notes shall be deemed to be a renewal of notes subject only to the requirements of this section.

SEC. 9. Section 15205 is added to the Education Code, to read:

1 15205. For any bonds authorized at a school district  
2 election on November 2 5, 1991, and thereafter cancelled  
3 pursuant to this article without having been issued, the  
4 board of supervisors may order the cancellation annulled  
5 upon a finding that the issuance of the bonds is in the best  
6 interest of the district. Upon such order the district shall  
7 have the authority to issue the bonds pursuant to all of the  
8 terms and limitations of the original authorization,  
9 including the purposes for which such bonds may be  
10 issued, the maximum interest rate, and the maximum  
11 term to maturity, provided that the aggregate amount of  
12 bonds issued pursuant to such authorization does not  
13 exceed the amount originally authorized by the voters.

14 SEC. 10. Section 53508.7 of the Government Code is  
15 amended to read:

16 53508.7. (a) The bonds shall be sold at a public or  
17 private sale and at a price at, above, or below par, as the  
18 legislative body determines.

19 (b) Any bonds sold at a discount below the par value  
20 of the bonds shall be sold in compliance with the  
21 provisions of Section 53532.

22 (c) The private sale of bonds is limited to the sale of  
23 school districts' and community college districts' bonds  
24 pursuant to Sections 15140 or 15146 of the Education  
25 Code.

26 SEC. 11. Notwithstanding Section 17610 of the  
27 Government Code, if the Commission on State Mandates  
28 determines that this act contains costs mandated by the  
29 state, reimbursement to local agencies and school  
30 districts for those costs shall be made pursuant to Part 7  
31 (commencing with Section 17500) of Division 4 of Title  
32 2 of the Government Code. If the statewide cost of the  
33 claim for reimbursement does not exceed one million  
34 dollars (\$1,000,000), reimbursement shall be made from  
35 the State Mandates Claims Fund.